



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,475	07/07/2003	Stephen H. Herrmann	22058-590DIV CON	5152
30623	7590	05/05/2006	EXAMINER	
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C. ONE FINANCIAL CENTER BOSTON, MA 02111			TUNGATURTHI, PARITHOSH K	
			ART UNIT	PAPER NUMBER
			1643	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/614,475	HERRMANN ET AL.
	Examiner Parithosh K. Tungaturthi	Art Unit 1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 51-70 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) ____ is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) 51-70 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____ .

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 51-70 in part, drawn to a composition comprising a chimeric polypeptide wherein the chemokines polypeptide is SEQ ID NO:1, classified in class 530, subclass 350, for example.
 - II. Claims 51-70 in part, drawn to a composition comprising a chimeric polypeptide wherein the chemokines polypeptide is SEQ ID NO:3, classified in class 530, subclass 350, for example.
2. The inventions are distinct, each from the other because of the following reasons:
Inventions of Groups I and II represent separate and distinct products which are made by materially different methods, and are used in materially different methods which have different modes of operation, different functions and different effects. The chimeric polypeptides of Group I and II are structurally and functionally different from each other. In the instant case the amino acid sequence as set forth in SEQ ID N0:1 is 328 amino acids in length, with the mature polypeptide produced by cleavage of the secretory leader sequence beginning at amino acid 20, 21, or 22 of SEQ ID NO:1, depending on how the polypeptide is processed; and the amino acid sequence as set forth in SEQ ID NO:3 is 326 amino acids in length, with the mature polypeptide produced by cleavage of the secretory leader sequence beginning at amino acid 20 of

SEQ ID NO:3. The polypeptide as set forth in SEQ ID NO:3 differs from that encoded by the polypeptide as set forth in SEQ ID N0:1 in that two amino acids have been deleted from the polypeptide as set forth in SEQ ID NO:3 sequence so that cleavage of the secretory leader sequence is predicted to always produce a product beginning at amino acid 20 of SEQ ID NO:3. The examination of all groups would require different searches in the U.S. Patent shoes and the scientific literature and would require the consideration of different patentability issues. Thus the inventions I and II are patentably distinct.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. Furthermore, because these inventions are distinct for the reasons given above and the search required for one group is not required for another group, restriction for examination purposes as indicated is proper.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Art Unit: 1643

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Parithosh K. Tungaturthi whose telephone number is 571-272-8789. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry R. Helms, Ph.D. can be reached on (571) 272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully,
Parithosh K. Tungaturthi, Ph.D.
Ph: (571) 272-8789



LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER